

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 2915 OF 2006.

Shri Ramchandra Ratnu Shigwan
R/o Room No.2, Faculty Hostel,
Deccan College, Yerawada, Pune-6 ..Petitioner
V/s

1. Deccan College, Post Graduage &
Research Institute (Deemed University)
through Registrar/Director,
Yerwada, Pune-411006
2. Dr. Shri JK. padayya
The current Director, Deccan College,
Post Graduate & Research Institute
(Deemed University)
Yerwada, Pune-411006
3. Mrs. Trupti D. More,
Currently: The Librarian,
Deccan College, Post Graduate,
and Research Institute (Deemed
University), Yerwada, Pune-411006
4. The President, Deccan College,
Post Graduate & Research Institute
Deemed University, Yerwada,
Pune, 411 006. Respondents.

Mr. M.M.Sathaye for the petitioner.
Mr. S.R. Nargolkar for respondent Nos. 1 to 4.

**CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.**

DATE : 8TH DECEMBER, 2006.

JUDGMENT (PER J.H.BHATIA, J.)

. The petitioner, who is working as a Assistant Librarian with respondent No.1, has challenged selection of respondent No.3 as Librarian of respondent No.1 by filing this petition.

2. According to petitioner, he is in service of respondent No.1 for last about 23 years and has also been working in the library in different capacities. Since May, 2004, he is working as an Assistant Librarian. He holds all the qualifications required for the post of librarian. Respondent No.3 was working as Senior Library Assistant. That post is two steps below the Assistant Librarian. However, she was selected by the Selection Committee headed by respondent No.2, who is the Director of the Institution. Respondent No.3, being junior and much less experienced could not have been selected but because of the bias in the minds of the members of the Selection Committee created by respondent No.2 as Director and Chairman of that Committee. The petitioner had also made a grievance to respondent No. 4, the President and the respondent No.4 was pleased to advise the Selection Committee to cancel the selection of respondent No.3 but the Selection Committee did not agree. According to the petitioner,

the committee was bound by the directions given by respondent No.4, in view of the dispute which had arisen in the institution.

3. The respondents contested the petition by filing affidavit-in-reply of Shri S.R. Kashikar, Registrar of respondent No.1, Institution. The affidavit is supported by larger number of documents. As per affidavit, respondent No.1 is one of the foremost centres of higher learning and research in the country. The institution has reputation even outside the country, and it attracts students and research scholars from many South Asian, South-East Asian, Middle Eastern and African countries and also in small numbers from advanced countries in Europe and North America. The institution has achieved a status of special importance in heritage studies dealing with ancient Indian history, culture, archaeology, ancient and modern Indian languages, Medieval/Maratha history and anthropological study of Indian populations. The institution was established in 1821. In recognition of its excellence, status of Deemed University has been confirmed on it from 1994-95. The students and scholars take up M.A. and Ph.D. Courses in Archaeology and Linguistics, being

the two major departments. In view of this, it is necessary that the Librarian should be highly qualified. The post of librarian has been equated with teaching staff and this is the only non-faculty post which has superannuation age of 60 years, whereas all other non-teaching, staff including the Registrar, retire at the age of 58 years. The post of the Librarian fell vacant in 1998-99 and the Government gave sanction to fill up the same in the year 2004. The applications were called and interviews were held after constituting the proper Selection Committee. The Selection Committee unanimously selected respondent No.3 because she, over and above the general qualifications required for the post, fulfilled the additional qualification of having passed NET. The unanimous report of Selection Committee was accepted by the Management Council in its meeting held on 18th December, 2004. Thus, the post was filled up by nomination and not by promotion.

4. As per the reply of the respondents, the petitioner was one of the internal candidates, who were also called for interview. He however, failed to get selected and thereafter, he made a complaint to the President of the Institution i.e. respondent No.4.

After perusal of the record pertaining the Selection Committee, the respondent No.4 also instructed the Registrar on 31st January, 2005 to inform the petitioner that the Selection Committee Report and its acceptance by the Management Council were quite clear and there was no need for him to interfere in the matter. It is pointed out that earlier on a complaint made by the petitioner, respondent No.4 had expressed his opinion, that Selection of respondent No.3 must be cancelled and fresh selection be made. However, that opinion was considered by the Management Council. The opinion of the President is only recommendatory in nature and not binding on the Management Council. After the initial opinion, respondent No.4, the President, had perused the complete record and was satisfied that the selection of respondent No.3 was proper and the grievance of the petitioner was not justified. It is contended that the Selection Committee was completely unbiased and respondent No.3 was selected on her own merits. Therefore, there is no substance in the petition and is liable to be dismissed.

5. At the stage of admission itself we have heard the learned Counsel at some length and also perused the

relevant documents carefully. There is no dispute that the post of Librarian of the respondent No.1 institution has been equated with the teaching faculty, though it is actually from non-teaching staff, only because of the importance given to the library of the Institution. The retirement age of the Librarian is also increased to 60 years, while the retirement age of all other non-teaching staff including the Registrar is 58 years. Admittedly, the members of the teaching staff for under graduate and post graduate Colleges and Institution have to clear NET (National Eligibility Test). The Institution called applications for the post of Librarian and the post was filled up by nomination and not merely by promotion from the existing staff. Therefore, question of seniority would be immaterial as long as all the candidates who appeared for the interview were holding minimum qualification and experience required for the post. As per the advertisement for the post besides the other necessary qualifications, Net was shown as an additional qualification for the said post. While the petitioner and respondent No.3 are otherwise equally qualified, the respondent No.3 was only candidate who had cleared NET.

6. The Selection Committee consisted of

- (1) Director (Chairman),
- (2) Joint Director
- (3) Three Experts who are not connected with the Institution to be nominated by the Board and
- (4) A nominee of the Director of Education (Higher Education).

From this it is clear that the Selection Committee consisted of only Director and Joint Director from the Institution. Three experts were not connected with the institution and besides them, there was also a nominee of Director of Education (Higher Education), who is a Government functionary. Therefore impartiality of the Selection Committee could not be doubted.

7. It is contended that the petitioner had come to know that respondent No.2, who was the Director and Chairman of the Selection Committee, had influenced the minds of other members of the Selection Committee informing them that there was an allegation of sexual abuse against the petitioner. About this allegation of bias, the President of the institution had discussed with respondent No.2. As per the reply the respondent No.2 told the president that he in his capacity as Chairman of the Selection Committee had asked the

petitioner that in his service record there were some papers concerning a complaint of sexual harassment to one of the female employees of the library. This query was put to the petitioner not with any malafide intention but with a view to giving him a chance to offer his clarification before the Selection Committee. In fact, this was expected from the Chairman of the Committee, so that the petitioner should get an opportunity to clarify his position. It appears that about that incident he was not found guilty but was warned to be more careful. Merely because of this incident, it cannot be presumed or inferred that respondent No.2 or other members of the committee had bias against the petitioner.

8. We have also perused the Rules of the respondent No.1, Institution carefully. Sub- Rule (Viii) pertaining to the meeting of the Management provides thus:

"In an emergency matter or situation, the Director shall have the power to take such action as he may consider necessary in the interest of the Institution in consultation with the Joint Director, and shall report such action to the Council at its next meeting for approval. In the event of the Council failing to approve

the Director's action the matter will be referred to the President whose decision shall be final." (Emphasis supplied)

Relying on this Rule, it is urged on behalf of the petitioner that respondent No.4 had asked the Management Council to cancel the selection of respondent No.3 and to undertake fresh selection process and this was binding. As pointed out earlier, after perusal of the record the President himself informed the Registrar that he was satisfied that the procedure adopted by the Selection Committee as well as Management Council was proper and needed no interference. In fact the above referred rule gives finality to the decision of the President only in the event of Council failing to approve the Director's action taken in emergency matters or situation. In the present case, the decision of the Selection Committee was unanimous and it was also approved by the Management Council. As such the aforesaid rule could not be applicable to the facts of the present case. There is nothing on record or in the rules that the President has power to veto or overrule decisions of Selection Committee and the Management Council.

9. Taking into consideration all the circumstances, we are satisfied that there is no material to show that any illegality or irregularity has been committed by the respondent No.1 in selecting and appointing respondent No. 3 as a librarian in preference to the petitioner and other candidates. Further this Court cannot sit in appeal over the Selection Committee nor it can substitute its own opinion in place of the opinion of the Selection Committee which consists of the experts in the field. We do not see any reason to entertain this petition under Article 226 of the Constitution of India.

10. For the aforesaid reasons, the petition stands dismissed summarily.

(J.H. BHATIA, J.)

(B.H. MARLAPALLE, J.)